

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

A&P SUPPORT, INC., and ADVANTAGE)	
CAPITAL INVESTMENTS, LLC d/b/a)	
RWI BUSINESS SERVICES,)	
)	
Plaintiffs,)	
)	
v.)	
)	
CRUCIBLE VENTURES LIMITED,)	
THOMAS A. WHITESIDES, JR.,)	
and RANDALL E. CARROLL,)	
)	
Defendants.)	Civil Action No. 1:15-CV-094-C-BL

ORDER

Defendant Thomas A. Whitesides, Jr., appearing *pro se*, filed letters with the Court on August 23, 2017, and November 16, 2017, asking to be removed from this case. The United States Magistrate Judge construed those letters as motions to dismiss for lack of notice and failure to state a claim upon which relief may be granted, and the undersigned agrees with that characterization. Plaintiffs filed a response, and the United States Magistrate Judge issued his Report and Recommendation on November 17, 2017, recommending that the motions be granted. None of the parties filed any objections.¹

¹The Court notes that Plaintiffs' prior counsel withdrew from this case after informing the Court that an involuntary petition for bankruptcy had been filed against Plaintiff A&P Support, Inc. on February 25, 2016. The Chapter 7 Trustee for that bankruptcy proceeding then sent a letter to the Court requesting an extension of time to obtain replacement counsel for Plaintiffs. That request was granted by the Magistrate Judge and new counsel appeared in this action on behalf of the Plaintiffs on October 4, 2017. The Court is of the opinion that the pending bankruptcy proceeding does not create any reason for this case to be stayed because Plaintiffs' present counsel has been retained by the Chapter 7 Trustee and approved by the United States Bankruptcy Court for the Middle District of Pennsylvania.

The Court has reviewed the Report and Recommendation for clear error and finds none. It is therefore **ORDERED** that the findings and conclusions in the Report and Recommendation are hereby **ADOPTED** as the findings and conclusions of the Court. Accordingly, Defendant Whitesides' motions to dismiss are **GRANTED** to the extent that they seek dismissal under Federal Rule of Civil Procedure 12(b)(5) and **DENIED AS MOOT** to the extent that they seek dismissal under Federal Rule of Civil Procedure 12(b)(6). Defendant Thomas A. Whitesides, Jr. is **TERMINATED** as a party to this case.

This case is returned to the docket of the Honorable E. Scott Frost for further proceedings consistent with the order of reference.

SO ORDERED this 23rd day of January, 2018.



SAM R. CUMMINGS
SENIOR UNITED STATES DISTRICT JUDGE